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Barristers & Solicitors / Patent & Trade-mark Agents

Norton Rose OR LLP
Royal Bank Plaza, South Tower, Suite 3800
200 Bay Street, P.O. Box 84
Toronto, Ontario M5J 2Z4 CANADA

F: +1 416.216.3930
nortonrose.com

On June 1, 2011, Ogilvy Renault joined Norton Rose Group.

September 13, 2011

**Sent By E-mail**

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2701
Toronto, ON M4P 1E4

Your reference

Our reference
01009188-0043

Direct line
416.216.4865

Email
Alan.Mark@nortonrose.com

Dear Ms. Walli:

**CANDAS Application**
**OEB File No.: EB-2011-0120**

We write on behalf of the Electricity Distributors Association ("EDA") with respect to Mr. Rodger's letter of September 9, 2011 regarding the sequencing of the hearing and the issues list.

We support the request of Toronto Hydro Electric System Limited ("THESL") for the sequencing of the Board's inquiry into the issues raised in this proceeding and for the early settlement of an issues list

In regard to both of these issues we note the inconsistencies in the Applicant's position. On the one hand, the bulk of the Applicant's evidence is devoted to the issue of necessity, including the (unspecified) financial burden which the Applicants would suffer if access on the terms and conditions set out in the CCTA Order were not granted. On the other hand, in answering interrogatories, the Applicants have taken the position that the CCTA decision applies *ipso facto* and that evidence regarding the financial burden, including price, is not relevant. It seems to the EDA that there are two consequences of this position:

1. If the Board determines that the CCTA decision does not apply *ipso facto*, the Board will have to receive further evidence on financial issues and price. In other words, the Applicant itself has already effectively bifurcated this proceeding; and

2. It is apparent that there is not clarity on what the essential issues in the hearing are and this must be clarified as soon as possible.

Lastly, we agree that it is unlikely that the two hearing days set aside for the oral phase of this proceeding will be sufficient if the Board intends to canvass all of the issues at that time.

Yours very truly,

Alan H. Mark

AHM/il

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copy to: Mark Rodger
Helen T. Newland
Michael Schafler
Kristi Sebalj